

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

January 31, 2008

Charles R. Fulbruge III
Clerk

No. 07-50471
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

FRANCISCO ORTEGA-RUBIO

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:06-CR-2292-ALL

Before KING, DAVIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Francisco Ortega-Rubio (Ortega) appeals his 27-month sentence following his guilty plea to importation of marijuana and possession with intent to distribute marijuana. He argues that the district court clearly erred in denying him a minor-role adjustment pursuant to U.S.S.G. § 3B1.2. The district court's finding that Ortega was not a minor participant was plausible in light of the

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

record as a whole and, thus, not clearly erroneous. See *United States v. Villanueva*, 408 F.3d 193, 203-04 (5th Cir. 2005).

Ortega also contends that his sentence was unreasonable on various grounds. Ortega did not preserve this issue; thus, review is for plain error. See *United States v. Peltier*, 505 F.3d 389, 392 (5th Cir. 2007). Ortega identifies no plain error. Thus, Ortega has failed to show that his sentence is unreasonable. See *United States v. Alonzo*, 435 F.3d 551, 554 (5th Cir. 2006); *Gall v. United States*, 128 S. Ct 586, 594-95 (2007); *Rita v. United States*, 127 S. Ct. 2456, 2462 (2007). The judgment of the district court is AFFIRMED.